

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

RAMON ARMAS BORROTO JR.

Plaintiff,

vs.

Case No. 5:04CV165-RH/WCS

**MCDONALD, PATE, SPEIGHT,
MCKENZIE and KENT.**

Defendants.

_____ /

Defendants' Motion for Enlargement of Time to File Special Report

Defendants,¹ through undersigned counsel, pursuant to Rule 6(b), Federal Rules of Civil Procedure, hereby move for an enlargement of time to file the Special Report in this case by thirty (30) days from the date of an order on this motion. As grounds, Defendants state:

1. Defendants' Special Report is due on the date of this motion (August 23, 2005). Defendants have moved to stay Special Report proceedings (doc. 49) pending resolution of Defendant's motion for reconsideration of Defendant's motion to dismiss Plaintiff's amended complaint for failing to exhaust administrative remedies and Defendants' alternative motion for certification of an interlocutory appeal on rulings determining the issue of exhaustion of administrative remedies (doc. 48). However, no ruling on the motion to stay has been issued at this time.

¹ Nothing in this motion shall be construed as an appearance on behalf of or a waiver of service of process as to any unserved or improperly served persons or entities.

2. In the event that this case continues to proceed on the merits despite Defendants' motion to stay, and in an abundance of caution, Defendants file the instant request for a 30-day enlargement of time because the undersigned needs additional time to prepare the Special Report. As newly assigned counsel to the case, the undersigned is still reviewing Plaintiff's claims. Co-counsel Caryl Kilinski continues to be immersed in discovery and pretrial preparations in the case of Osterback v. Crosby, et. al., Case no. 3:04cv210-J-25MCR (class action), filed in the United States District Court, Middle District of Florida, Jacksonville Division.

3. Granting the requested enlargement of time will not prejudice Plaintiff and will serve the interests of justice.

4. The undersigned has not conferred with Plaintiff as Plaintiff is an unrepresented inmate incarcerated in the custody of the Florida Department of Corrections. This Motion for Enlargement is made in good faith and not for the purpose of delay.

WHEREFORE, Defendants move this court for an order enlarging the time within which Defendants have to submit the Special Report by an additional 30 days from the date of this Court's order granting this motion.

Respectfully submitted,

CHARLES J. CRIST, JR.
ATTORNEY GENERAL

/s/Joy A. Stubbs
Assistant Attorney General
Florida Bar No.: 0062870

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished by U.S. Mail to Ramon Armas Borroto X27467 at Florida State Prison, 7819 N.W. 228th Street, Raiford, Florida 32026-1230 on this 23rd day of August, 2005.

/s/ Joy A. Stubbs
Assistant Attorney General